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FREDERICK W. GIBB, III
GIBB INTELLECTUAL PROPERTY LAW FIRM, LLC
2568-A RIVA ROAD
SUITE 304
ANNAPOLIS, MD 21401

EXAMINER

BROWN, RUEBEN M

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2623

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/070,831
Filing Date: April 30, 1998
Appellant(s): DAN ET AL.

Frederick Gibb
For Appellant

EXAMINER'S ANSWER

This answer is in response to the appeal brief filed 3/16/2006 appealing from the Office
action mailed 11/2/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is substantially correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

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(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,810,503	DAVID	8-2000
6,260,194	SHIELS	9-2001
US-PGPUB 2002/0080159	MONTGOMERY	6-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Considering claim 10, the amended claimed method for programmatic generation of continuous multimedia presentations by a station capable of receiving at least one presentation and a plurality of sensed events, (see col. 3, lines 31-65) the method comprising:

‘maintaining a library of rules’, reads on the discussion in David of the list of parameters that are tested for a presentation sequence, including; time, loop, interval tiebreak and drop threshold (see Fig. 2 & col. 7, lines 45-58). These parameters are received as JavaScript syntax and are referred to as the sequencer control, which may be stored in system memory 22, at a subscriber computer (col. 6, lines 19-21).

‘receiving at least one presentation’ is met by the VBScript sequencer control sequence 350 that defines a set of sequence control commands within a web page, col. 8, lines 5-11 & Fig 3. The web page in David, reads on the claimed ‘previously generated presentation’.

‘selecting at least one event, wherein events control which rules in the library are applied to the presentation, and testing each rule in the library for each selected event to determine which rules will be applied to the presentation’, is met by the disclosure in David (co. 8, lines 1-22) of sequences 355, 360 & 365, for instance, all of which test the rules, i.e., parameters discussed above, namely; time, loop, interval, tiebreak and drop threshold. As an example David teaches that the event1 is invoked 1.5 seconds after the start of the of the sequence timeline set1, the event is repeated 17 times, at .300 second intervals has a tiebreak priority of 3 and a drop threshold of 1.000 seconds.

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‘applying each rule that positively responded to the testing step to the at least one presentation top modify the at least one presentation’ is met by the application of the parameter values for each sequence event in order to display the objects according to the sequence control, see col. 7, lines 21-45.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 41-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shields, (U.S. Pat # 6,260,194), in view of Montgomery, (U.S. PG-PUB 2002/0080159).

Considering claims 41, 49 & 55, the amended claimed method of modifying previously generated presentation documents comprising:

‘creating a set of rules based on user input’, Shiels teaches that the user input controls the presentation of a movie, (Abstract; col. 1, lines 41-58; col. 3, lines 24-35 & col. 8, lines 1-28).

Thus the claimed “creating a set of rules based on the user input”, reads on the algorithm in Shiels in which 1) the instant captured frame sequence will be recalled, 2) when to re-introduce the instant captured frame sequence and 3) the particular branch selection is made dependent on whether or not a particular frame sequence is selected to be captured by the user, again, see col. 1, lines 40-60. More specifically, Shiels discloses that, ‘To avoid the requirement for user interaction prior to each and every branch point of the structure, **path selection is made dependent on previous interactions**’, emphasis added, col. 7, lines 7-10. Therefore, the instruction in Shiels that makes the path selection, dependent on previous interactions of the user, reads on the claimed, “set of rules based on user input”.

Also, Fig. 8 represents a user’s input to change the value of a character to either positive or negative, from the default. Thus the rule, created as a result of this user input is to effect future branch nodes in a positive or negative manner, with respect to a character, based on whether the user input a positive or negative value.

‘selecting a previously generated document to be modified’ is met by the narrative video programs delivered to the STB, col. 4, lines 1-35.

‘modifying, ..., the previously generated document based on the rules to produced a modified presentation and outputting the presentation’ is met by the operation of Shiels, col. 2, lines 1-25; col. 6, lines 1-64; col. 7, lines 7-56 & col. 8, lines 1-28.

As for the additionally claimed feature of, “after creating the rules, automatically modifying, without user intervention”, Shiels teaches that in order to avoid the requirement of the user interaction prior to every branch, path selection of some of the branches may be dependent on previous interactions, col. 7, lines 7-12. However, this does not hold in all instances. Nevertheless, Montgomery teaches modifying a movie based upon a script that may be downloaded along with the movie and modified by the user, see Abstract; Para 0043-Para 0047. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Shiels with the teaching of Montgomery, at least for the desirable benefit of automating all of the modifications of a previously generated presentation, Para 0014 and Para 0033, which makes the production sequences in real time, relatively smooth and continuous, as taught by Montgomery, Para 0015.

Therefore the ‘script’ in Montgomery, which tells the computer how to execute the moves selected by the user, also reads on the claimed, ‘creating a set of rules based on user input’, see Para 0039-0043. More specifically, Montgomery teaches that the script module 475 includes an edit decision list (EDL), which clearly meets the claimed “set of rules”, Para 0046-0047.

Regarding claim 55, the claimed feature of selecting at least two previously generated documents to be combined is met by the discussion in Shiels of handling compound images, for instance taking a video sprite and overlaying it on a locally generated background image, col. 5, lines 45-55.

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Considering claims 42-45 & 50-51, Shiels teaches that the changes to the document includes changing the content, temporal order of sections, spatial layout and attributes, see col. Fig. 6-Fig. 10, col. 1, lines 41-58; col. 5, lines 30-55. Montgomery also discloses modifying the image itself, Para 0029-Para 0033, which reads on changing the content.

Considering claims 46-48, 52-54 & 58-61, Shiels teaches that the presentation documents may be audio, video or a still images from a screen, which reads on static documents, col. 3, lines 52-56; col. 4, lines 1-15; col. 9, lines 25-48. Montgomery discloses modifying still images, Para 0032.

Considering claims 56-57, the claimed subject matter is broad enough to read on the discussion in Shiels of overlaying video sprite on a background image, col. 5, lines 50-55. As for the feature of interleaving, Shiels also discloses that video streams may be seamlessly joined, col. 6, lines 1-30. Montgomery also discloses inserting stock footage, Para 0033.

(10) Response to Argument

Appellant's main argument with respect to the 102(e) rejection of claim 10 using David, is that the reference combines individual multimedia events to generate a new presentation, as argued on page 6 of the Brief. Thus appellant's argument is that David creates a

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new presentation (presumably from an already existing presentation), and that this new presentation is not the same as modifying a previously generated presentation.

Before the rebuttal of this argument is made, examiner will focus on the peripheral argument by appellant that David creates new presentations from Web pages, and as such these Web pages do not read on the claimed “continuous multimedia presentations”, as argued on page 7. It is argued on page 7 that “a presentation has a beginning and an end, and dynamically changes as the presentation progresses from the beginning to the end”, whereas “to the contrary, a Web page is a static display that changes only when reacting to user inputs”. In response to appellant’s argument that the references fail to show certain features of applicant’s invention, it is noted that the features upon which appellant relies (i.e., presentation having a beginning and an end, and dynamically changing as the presentation progresses from beginning to end) is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Examiner furthermore notes that, in response to applicant's arguments, the recitation “continuous multimedia presentations” has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190

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USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). The body of the claims recites modifying “a previously generated presentation”, which may be construed to be specifically different from the “continuous multimedia presentations”, recited in the preamble.

Notwithstanding the two previous paragraphs, considering appellant’s arguments on the merits of the claimed “continuous multimedia presentations”, again the independent claims do not at all require that the “continuous multimedia presentations” have a beginning and an end. Thus the claimed feature may be interpreted as “continuously displayed multimedia presentations”, or “multimedia presentations that are displayed continuously” However, it is noted that even if the claim were interpreted as asserted by the appellant, (for example as a video clip, which is generally considered continuous media) David teaches that the Web pages may contain multimedia events, such as a video clips, see col. 1, lines 35-45; col. 7, lines 25-32. Therefore the web pages in David are not limited to static images, the images in David on the web page may change according to a schedule, col. 8, lines 5-25, and thus do have a “beginning and an end”, as argued by appellant on page 7.

Returning to the issue of, “to modify the at least one previously generated presentation”, appellant argues on page 7 that “David merely synchronizes and arranges the multimedia events”. First of all, it is clear, even from appellant’s characterization of David, that the reference teaches interaction with or manipulation of multimedia presentations that have already been created. In particular, appellant asserts on page 7 that “David utilizes a sequencer to create a

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presentation of multimedia events that are synchronized”, (which is argued to be contrary to appellant’s invention) and on page 8 argues that “there is nothing in David which relates to manipulating or modifying any of the multimedia events that are synchronized”.

Examiner asserts that whether or not David teaches modifying the multimedia clips attached to the web page is a moot point. This is true, since it is the web pages in David that corresponds with the claimed “previously generated presentations”.

David may be described as animated Web pages, since the events that may be invoked, represents animation or moving images. Thus it is incorrect to characterize David as limited to a static Web page. As the various events are executed in David, different video and/or graphics may or may not be presented to the viewer from video sequences, which reads on the claimed “continuous”. The multimedia events may be a video clip, which also reads on the dependent claims. Each multimedia event that is invoked on the web page represents a modification, at least of the original web page (i.e., previously generation presentation).

It is pointed out that in David, there are a series of events that may or may not be executed depending upon the outcome of the sensed events. Thus the “library of rules” reads on the parameters identified in the sequence of events that are processed for each object in David. “Testing each rule for each selected event”, reads on detecting the value of each parameter for each event in David. “Applying each rule that positively responded to the testing step”, reads on applying each rule from the event that has a value to be executed. In other words, some of the

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rules may have a value of '0', which would mean that the instant rule did not, "positively respond to the testing step" and that it would not be executed for that event, see col. 8, lines 1-35. Once the parameters are set and executed, then the web page (i.e., "previously-generated presentation") on which the event is displayed is modified.

David gives the example of statement 365 shown in Fig. 3. In this example, the event, 'event1', is to be invoked 1.5 seconds after the start of the sequencer timeline 'Set1'. Also 'event1' is to be repeated 17 times, at .3 sec. intervals, has a break priority of 3 and a drop threshold of 1.00. The execution of those parameters for an event in David represents the modified presentation of the web page, and thus meets the claimed language.

Regarding the rejection of claims 41-61, as being obvious over Shiels, in view of Montgomery, appellant argues on page 11 that 'Shiels does not actually change the previously generated presentation in any manner, but instead merely displays different portions of the presentation, depending upon the interactive user input'. First of all examiner points out that the independent claim language does not recite, and thus does not require that a modification be made to an image, per se. The claim recites "modifying... said previously-generated presentation", which is not limited to changes in the image. In fact, the claim is broad enough to read on modifying a display sequence of frames or images.

In particular, claim 41 states, "... modifying, without user intervention, said previously-generated presentation based on said rules to produce a modified presentation". And for

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instance, claim 43, recites, “wherein said *modifying comprises changing temporal order of sections* of said previously-generated presentation”, emphasis added. Thus it is clear that the disclosure in Shields teaches presenting different sections of the program to different users, based on the instant user’s input, reads on “modifying a presentation”, see col. 2, lines 16-24. A presentation is broad enough to read on a display of content for a user, presented on a display device, such as TV or monitor. Appellant’s claim does not define “previously-generated presentation”, with any other limitations. Thus, again any change in the order from a default presentation”, see Shields col. 6, lines 42-46, which reads on the claimed subject matter.

Appellant goes on to argue on page 12 that Shields does not teach “creating a set of rules based on user input”, as defined by claim 41. Appellant actually cites several changes to presentations discussed by Shields on page 12, but then proceeds to assert that these changes are not modifications to a previously-generated presentation; examiner respectfully disagrees. In particular, on page 12, appellant admits that Shields ‘changes which movie portions of the presentation are presented to the user so as to change the ending of a movie, change the character reaction of a video game, change the appearance of a scene depending upon the time of day, etc. ..., and alters which portions of the presentation are presented’. Examiner contends that these are all modifications to a previously generated presentation.

It is noted that Shields teaches that each branch node has a default path selection, which is the path that is selected, if there has been no previous input by the user relevant to the instant branch node, see col. 6, lines 41-46.

Shiels also teaches at least two algorithms that modifies the presentation based on user input. In the first instance, Shiels teaches that the user may selectively capture certain frame sequences that will be recalled at a later time, see col. 1, lines 45-60 & col. 8, lines 35-67 thru col. 9, lines 1-15. Thus the claimed “creating a set of rules based on the user input”, reads on the algorithm in Shiels in which 1) the instant captured frame sequence will be recalled, 2) when to re-introduce the instant captured frame sequence and 3) the particular branch selection is made dependent on whether or not a particular frame sequence is selected to be captured by the user, again, see col. 1, lines 40-60.

Also, the ‘script’ in Montgomery, which tells the computer how to execute the moves selected by the user, also reads on the claimed, ‘creating a set of rules based on user input’, see Para 0039-0043. More specifically, Montgomery teaches that the script module 475 includes an edit decision list (EDL), which clearly meets the claimed “set of rules”, Para 0046-0047.

As an example, Shiels teaches that if the user chooses to capture for recall, ‘the scene wherein Fred tells his old boss that he was not at work because of a party, instead of being ill’, then when this scene is reintroduced, Fred will be fired, for improperly taking the day off. However, if the user had not chosen to capture this scene for recall, then Fred would have kept his job at the relevant branch point B. Thus the above is a clear example of modifying a presentation based on rules created, based on a user input. In other words, whenever the user is presented with a modified story line, this represents a modified presentation.

The other algorithm that modifies the presentation based on the user's input, is the teaching of the user changing a positive or negative value of the characters in the narrative, col. 7, lines 11-50 & Fig. 8. Specifically, Shiels teaches that each character is initialised with a default value D, which may be made more positive or more negative by the user, on a sliding scale. The branch selection by the system is made based on characters' value at the branching node or point. Thus the claimed "creating set of rules based on the user input", reads on the algorithm in which based on the actual positive or negative values of characters in the narrative, a particular branch node is selected, and the presentation is modified.

Returning to the above scenario of Fred losing his job because the captured scene is re-introduced wherein he tells his old boss that he improperly took the day off, Shiels discloses that that outcome may be affected by the positive value of Fred's character at that branch point. In particular, even though Fred would have been fired, if his character value is positive enough, he may still keep his job (col. 9, lines 7-15.). Thus, its clear that again that Shiels provides at least one other set of rules for modifying a presentation, such that the rules are created based on user input.

Examiner points out that Shiels teaches that the video effects stage 42, which is also based on user input, allows the user to make several changes to the image itself, col. 5, lines 50-55, which reads on a change to the image. Thus examiner disagrees with appellant's argument that Shiels only teaches selective viewing of portions of a previously generated presentation, and

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hence does not read on claim. As mentioned above, modifying a previously generated presentation, is broad enough to read on modifying a display sequence of frames or images, but is also met by the discussion in Shiels of modifying the image itself.

Appellant goes on to argue on page 12, that 'even if the methodology presented in Shiels is somehow considered to modify, expand or combine the presentation, such modification expansion or combination is only performed with interactive user intervention'. First of all, examiner points out that Shiels explicitly discloses an alternative to user path selection at each and every branch, i.e., these selections may be dependent on previous interactions, see col. 7, lines 7-12. Secondly, examiner disagrees with the characterization of the passages of Shiels cited by appellant on page 12, namely col. 6, lines 23-29. In particular, these passages teaches that the user input is made during one or more finite interaction periods, **prior to** the presentation of the video sequence, after which the user's responses are stored in memory, emphasis added. Thus appellant's assertion that this passage requires interactive input during playback is not supported by the reference itself.

Examiner however cited Montgomery since Shiels does not state that all of the previously-generated presentations would be modified without user input; appears to include some instances wherein user interaction is made during playback. Appellant argues that the reference (Montgomery) does not teach that the previously generated presentation is modified in any way, on page 13. Nevertheless, appellant appears to discount Montgomery clear teaching that the script may execute several sequences on the image, such as cuts, fades, dissolves, etc.,

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which clearly reads on the claimed modifying a previously generated document, even as argued by appellant. The plain meaning of cuts, fades, etc. to an image discussed in Montgomery, clearly reads on a modification of previously generated presentation (image). Therefore, the basis of appellant's argument to the contrary is not understood. Examiner contends that the combination of Shiels and Montgomery reads on the claimed feature of modifying previously generated presentation.

Regarding independent claims 49 & 55, on pages 15-22, appellant essentially repeats the arguments made in the discussion of claim 41. Thus examiner arguments submitted in support of the rejection of claim 41, are also applicable to claims 49 & 55.

Regarding claims 42-45, again appellant continues to argue that changes in the sequences does not read on modification of a previously generated presentation. Examiner respectfully disagrees. As for changing the spatial layout of the previously generated presentation, the claimed feature is particularly met by Shiels col. 5, lines 40-45, which teaches changing the perspective from which a scene is presented to the viewer. This change in perspective necessarily changes the spatial layout of a presentation.

Regarding claim 43, which recites that the modification is to the temporal order of section of the previously-generated presentation, as pointed out above, Shiels selection of different branches based on the rules created from user input, reads on the claimed subject matter, col. 9, lines 5-15, col. 10, lines 11-21.

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As for claims 46-48, 52-54 & 58-61, the previously generated presentations in Shiels (col. 3, lines 52-56; col. 4, lines 1-15 & col. 9, lines 25-48) and Montgomery (Para 0032) are both directed to video programming, which meets the claimed subject matter from claims 46-47, 52-53 & 59-6061. The references also teach that the content may be still mages, which reads claims 48, 54, 58 & 61.

As for claims 50-51, Shiels teaches that the interaction may include 'modifications of the image themselves' and/or 'taking a video sprite and overlying it on a locally generated background image', which reads on the claimed subject matter.

As for claims 55-56, the claimed combining process that simultaneously presents at least two previously-generated presentations, by interleaving the at least two previously-generated presentations, clearly reads on overlying one image on another image, as taught by Shiels, col. 5, lines 45-58.

For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,


Reuben Brown

Conferees:

Chris Grant

Chris Kelley


CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600


CHRISTOPHER GRANT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600